



**II. State Liaison Counsel (Minute Entry, November 16, 2000)**

The State Liaison Committee has begun communications with the DLC and PSC regarding the status of the remaining state court cases and will report to the Court regarding these efforts at the February 25, 2005 Monthly Status Conference.

**III. Service List of Attorneys**

The parties will present the Court with the most current Master List of all Counsel and pro se plaintiffs, which will contain, where available, e-mail addresses.

**IV. Motion on Class Certification.**

The PLC has not yet filed the revised Motion for Class Certification. The filing has been deferred.

**V. Trust Account**

On February 4, 2005 a deposit was made into the Court's registry. Further, on January 27, 2005, the Court issued an Order allowing the PSC to withdraw funds from the Court's Registry. On February 17, 2005, these funds were delivered by the Clerk to PLC, and thereafter, deposited by PLC into the PSC account.

**VI. Trial Schedule**

There have been no trials or change in the trial schedule since the last Monthly Status Conference.

**VII. Pharmacy Indemnity Agreements**

There have been no pharmacy indemnity agreements executed by defendants since the last Status Conference. DLC will continue to furnish copies of all MDL pharmacy indemnity agreements if and when they are executed.

### **VIII. MDL Mediation and Resolution Program**

The enrollment process has proceeded since the last Monthly Status Conference. Approximately 28,368 plaintiffs and claimants have served enrollment forms. The defendants, the PLC and the Special Master are concluding the process of reviewing the enrollment forms to confirm eligibility, absence of duplicative enrollments and compliance with Term Sheet enrollment guidelines. The PLC and defendants continue to discuss a number of issues that have arisen during the course of the enrollment process, such as pro se plaintiffs, plaintiffs/claimants whose location is now unknown and plaintiffs/claimants who desire to participate in the MDL Program but may not qualify under the Term Sheet. The parties are targeting the resolution of these issues and completion of the enrollment eligibility and confirmation of the numbers of enrollees in the categories defined in the Term Sheet.

At last month's Status Conference, the Court asked the parties to submit a list of the Achord claimants, and their counsel, who have not enrolled in the Settlement Program. On February 4, 2005, DLC delivered such list. In turn, this Court issued a Minute Entry ordering these claimants to attend this month's Status Conference. Per the Court's Order, the PLC provided a copy of the Minute Entry to all counsel listed on the list of non-enrolled Achord plaintiffs. PLC has received any number of responses from various lawyers on the Achord list, has communicated with several lawyers and will be prepared to discuss the Achord counsel issue with the Court at the February 25, 2005 monthly Status Conference.

Each week, the Special Master holds a telephone conference with the parties to discuss the administration of the Resolution Program.

The parties will submit to the Court a Motion and Order regarding the administration of the settlement funds in the Program as a Qualified Settlement Fund (QSF).

The parties will be prepared to discuss these issues further at the February 25, 2005 Monthly Status Conference.

**IX. Global Application of Daubert**

The parties have had no further discussions regarding this matter and the matter is on hold pending the outcome of the MDL's Settlement Program

**X. Motion for Summary Judgment**

PLC has delayed the filing with the court a Motion for Summary Judgment regarding Johnson & Johnson's liability. The parties will be prepared to discuss this further at the February 25, 2005 Monthly Status Conference.

**XI. Pro se Plaintiffs**

This is an on-going issue that the parties are discussing. Furthermore, on January 17, 2005, PLC wrote each pro se plaintiff and, as requested by the Court at the last monthly Status Conference, asked each pro se plaintiff to contact PLC and advise regarding their desire to have counsel representation in this matter. Since then, a number of responses from pro se plaintiffs have been received by PLC. PLC will be prepared to discuss this further at the February 25, 2005 monthly Status Conference. As plaintiffs become pro se, Defendants are updating their service list to reflect this change in representation. The parties will be prepared to discuss this issue further at the February 25, 2005 Status Conference.

**NEW ITEMS:**

**XII. Plaintiffs' Correspondence to Court**

- a) **Melissa Hawthorne** (*James Butler, et al v Janssen Pharmaceutica Inc., et al*, #02-3749) – At last month's Status Conference, the Court discussed the status of Ms. Hawthorne's enrollment in the Settlement Program with her counsel, Dudley Jordan. At that time, the Court instructed Mr. Jordan to contact Ms. Hawthorne to determine who represents her.
- On February 3, 2005, Ms. Hawthorne sent correspondence to this Court regarding her case. On February 9, 2005, this Court ordered plaintiff's counsel, Dudley Jordan, to provide a response to Ms. Hawthorne by e-mail and regular mail prior to the February 25, 2005 Monthly Status Conference, with a copy of such correspondence to the Court. The parties will be prepared to discuss this at the February 25, 2005 Monthly Status Conference.
- b) **Rosie Janice Wright** (*Mary Eldridge Adams, et al v. Johnson & Johnson, et al*, #02-1215) - On February 10, 2005, Ms. Wright sent correspondence to this Court regarding her case. On February 15, 2005, this Court ordered plaintiff's counsel, Carl McAfee, to submit a response to the Court on or before Wednesday, February 23, 2005. The parties will be prepared to discuss this at the February 25, 2005 Monthly Status Conference.
- c) **Michael Allen** – On January 25, 2005, claimant Michael Allen advised PLC that he did not desire to prosecute any Propulsid claim and that he

desired for his matter to be dropped and dismissed. Michael Allen is one of the plaintiffs in the case entitled "Eddington, et al vs. Johnson & Johnson, et al," (Civil Docket 03-CV-3500), pending in the United States District Court, Eastern District of Louisiana, MDL-1355. PLC communicated with Michael Allen on January 27, 2005. The parties will be prepared to discuss this at the February 25, 2005 monthly Status Conference.

**XIII. Verilaw/Lexis Propulsid Litigation Migration**

The parties have been contacted by Lexis/Nexis, which purchased Verilaw, regarding the migration of the Propulsid electronic service system from Verilaw to the Lexis/Nexis File & Serve Electronic Service System. Consequently, a new order will need to be prepared by the parties and submitted to the Court for approval. The parties will be prepared to discuss this at the February 25, 2005 Monthly Status Conference.

**XIV. Correspondence from Counsel for Walgreen Louisiana Company, Inc. (Margaret Beo, et al v. Walgreen Louisiana, Co., Inc., et al, #01-0600)**

On January 26, 2005, counsel for Walgreen's sent the Court correspondence in which he requested that this court rule on its pending Motion for Summary Judgment and dismiss Walgreen. At the June 25, 2004 Monthly Status Conference, this Court agreed to defer ruling on this matter until the enrollment process was complete.

**XV. Remand Motions**

PLC received a request from the Weitz and Luxenberg law firm regarding recently filed remand motions in cases involving *Helena Masluk*, Docket No. 04-1278, *Marion Bucaria for the Estate of Thomas Bucaria*, Docket No. 04-1277 and *Judy*

*Ridgway for the Estate of Kenneth Ridgway*, Docket No. 04-1809. Counsel for plaintiff has expressed a desire to address the Court concerning these issues. The parties will be prepared to discuss this at the February 25, 2005 Monthly Status Conference.

Respectfully submitted,

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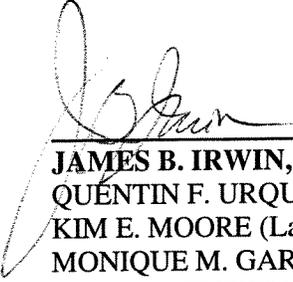
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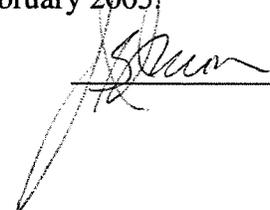
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**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing Joint Report No. 38 of Plaintiffs' and Defendants' Liaison Counsel was served on Plaintiffs' Liaison Counsel by hand and e-mail and by e-service to all parties by uploading same to Verilaw, on this 23<sup>rd</sup> day of February 2005.



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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA

IN RE:PROPULSID  
PRODUCTS LIABILITY LITIGATION

THIS DOCUMENT RELATES TO  
ALL CASES

: MDL NO. 1335  
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: SECTION: L  
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: JUDGE FALLON  
: MAG. WELLS ROBY  
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Monthly Status Conference  
February 25, 2005- 9:00 a.m.

AGENDA

Current Matters:

1. Update of Rolling Document Production and Electronic Document Production
2. State Liaison Counsel
3. Service List of Attorneys
4. Motion on Class Certification
5. Trust Account
6. Trial Schedule
7. Pharmacy Indemnity Agreements
8. MDL Mediation & Resolution Program
9. Global Application of Daubert
10. Motion For Summary Judgment

11. Pro Se Plaintiffs
12. Plaintiffs' Correspondence To Court
13. Verilaw/Lexis Propulsid Litigation Migration
14. Correspondence from counsel for Walgreen Louisiana Company, Inc.
15. Remand motions